

HOUSE BILL 1419

M2

(9lr0135)

ENROLLED BILL

—*Environmental Matters/Education, Health, and Environmental Affairs*—

Introduced by **Chair, Environmental Matters Committee (By Request – Departmental – Environment)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Department of Natural Resources – Fish and Fisheries Laws Violations**
3 **– Penalties**

4 FOR the purpose of altering the penalties for certain violations of certain fish and
5 fisheries laws; requiring the Department of Natural Resources, *in consultation*
6 *with certain entities*, to adopt regulations establishing a certain value for certain
7 species for a certain purpose; authorizing the Secretary of Natural Resources to
8 order restitution under certain circumstances; and generally relating to the
9 State fish and fisheries laws.

10 BY repealing and reenacting, with amendments,
11 Article – Natural Resources
12 Section 4–1201
13 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 (2005 Replacement Volume and 2008 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article – Natural Resources**

5 4–1201.

6 (a) Except as otherwise specifically provided in this title, a person who
7 violates any provision of this title is guilty of a misdemeanor and, upon conviction, is
8 subject to a fine not exceeding [~~\$500~~] **\$1,000**, with costs imposed in the discretion of
9 the court.

10 (b) Unless another penalty is specifically provided elsewhere in this title, any
11 person found guilty of a second or subsequent violation of any provision of this title is
12 subject to a fine not exceeding [~~\$1,000~~] **\$2,000**, or imprisonment not exceeding one
13 year, or both, with costs imposed in the discretion of the court. For the purpose of this
14 subsection, a second or subsequent violation is one which has occurred within two
15 years of any prior violation of this title.

16 (c) In addition to any administrative penalty provided in this title, violation
17 of any rule or regulation adopted by any unit within the Department pursuant to the
18 provisions of this title is a misdemeanor and is punishable as provided in subsections
19 (a) and (b).

20 (d) In addition to any other applicable penalty set forth in subsections (a)
21 and (b) of this section, a person who violates any provision of this title or any
22 regulations adopted by the Secretary under the authority of this title concerning the
23 taking of or creel limits for striped bass, commonly known as rockfish, shall be subject
24 to the following penalties:

25 (1) For a first violation, a fine not exceeding \$1,500 per fish;

26 (2) For a second violation, within a 2–year period, a fine not exceeding
27 \$2,500 per fish and revocation of the fishing license for a period not less than 1 year
28 but not more than 2 years; and

29 (3) For a third violation within a 4–year period, a fine not exceeding
30 \$2,500 per fish and revocation of the fishing license for a period not less than 2 years
31 but not more than 5 years.

32 (e) A common carrier transporting fish who is not the buyer, seller, or
33 catcher of the fish or is not controlled by the buyer, seller, or catcher of the fish is not
34 subject to any penalty under this section for transporting fish which is either
35 unlawfully caught or of unlawful size provided that the operator of the common carrier
36 has in his possession a valid bill of lading, stating the origin, shipper, destination and

1 receiver of the fish and the common carrier does not know or have reason to know that
2 the fish were unlawfully caught or of unlawful size.

3 (f) In addition to any other applicable penalty set forth in this title, a person
4 who unlawfully takes oysters from a leased oyster bottom, an oyster sanctuary, an
5 oyster reserve, or an area closed to shellfish harvest by the Department of the
6 Environment, when the area is designated and marked by buoys or other signage or
7 the person knew or should have known that taking the oysters from the area was
8 unlawful, is subject to a fine not exceeding \$3,000.

9 (G) (1) **IF A PERSON IS CONVICTED OF VIOLATING ANY PROVISION OF
10 THIS TITLE AND THE VIOLATION CAUSES OR RESULTS IN THE INJURY, DEATH,
11 OR DESTRUCTION OF ANY FISH, INCLUDING A PROTECTED SPECIES OF ANIMAL,
12 IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS TITLE, THE
13 SECRETARY MAY ORDER THE PERSON TO PAY RESTITUTION TO THE
14 DEPARTMENT FOR THE RESOURCE VALUE OF THE FISH, AS DETERMINED BY
15 THE REGULATIONS ADOPTED BY THE DEPARTMENT UNDER PARAGRAPH (2) OF
16 THIS SUBSECTION.**

17 (2) **THE DEPARTMENT, IN CONSULTATION WITH THE TIDAL
18 FISHERIES ADVISORY COMMISSION AND THE SPORT FISHERIES ADVISORY
19 COMMISSION, SHALL ADOPT REGULATIONS THAT ESTABLISH A SCHEDULE OF
20 RESOURCE VALUES FOR INDIVIDUAL SPECIES.**

21 (3) **IF TWO OR MORE DEFENDANTS ARE CONVICTED FOR THE
22 SAME VIOLATION CAUSING OR RESULTING IN THE INJURY, DEATH, OR
23 DESTRUCTION OF PROTECTED SPECIES OF ANIMALS, THE COURT MAY IMPOSE
24 RESTITUTION AGAINST THE DEFENDANTS JOINTLY AND EQUALLY.**

25 (4) (I) **RESTITUTION UNDER THIS SECTION SHALL BE PAID
26 WITHIN 30 DAYS OR A TIME PRESCRIBED BY REGULATION.**

27 (II) **IN EACH INSTANCE, RESTITUTION PAID UNDER THIS
28 SECTION SHALL BE CREDITED TO THE DEPARTMENT TO BE USED ONLY FOR THE
29 REPLACEMENT, HABITAT MANAGEMENT, OR ENFORCEMENT PROGRAMS FOR
30 INJURED, KILLED, OR DESTROYED FISH OR PROTECTED SPECIES OF ANIMALS.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 July 1, 2009.